

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

ePLUS INC.,)
)
Plaintiff,)
)
v.) Case No. 3:09CV620 (REP)
)
LAWSON SOFTWARE, INC.,)
)
)
Defendant.)

**DEFENDANT'S SUPPLEMENT TO THE PARTIES' JOINT
JURY-INSTRUCTIONS SUBMISSION**

The Court's Scheduling Order in this case required that Plaintiff ePlus, Inc., file the parties joint final submission to the Court regarding the parties' position on jury instructions. ePlus has refused to do so, taking the position that ePlus alone may decide the substance and format of the parties' articulation of their respective positions. (Exhibit A.) In an effort to resolve the parties' disputes on numerous jury instructions, Lawson suggested changes to ePlus's originally-proposed instructions to the Court. ePlus has taken the position that Lawson, while attempting to compromise by working from ePlus's proposals, should not be permitted to support its proposed changes with authority or argument. ePlus's refusal to include Lawson's positions in the joint submission has required the filing of this additional pleading setting out Lawson's positions, which are filed concurrently herewith as attached exhibits.

1. A modification of Lawson's Proposed Instruction D-24 on the issue of Patent Exhaustion, modified from Lawson's original proposal to address ePlus's concerns. (Exhibit B.)
2. A proposed instruction on the issue of Circumstantial Evidence that Lawson requests replace ePlus's originally-filed instruction P-16 which limits discussion of circumstantial evidence to the issue of Induced Infringement. (Exhibit C.)

3. Brief notes articulating Lawson's position on ePlus's Proposed Instructions P-1, P-22, and P-35. (Exhibit D.)
4. A note articulating Lawson's position on instructing the jury on the presumption of invalidity and a "clear and convincing evidence" burden. (Exhibit E.)
5. A note articulating Lawson's position on ePlus's objection to Lawson's Proposed Instruction D-26 (Exhibit F.)
6. A note articulating Lawson's position on ePlus's Proposed Instruction P-15. (Exhibit G.)
7. A note articulating Lawson's position on ePlus's Proposed Instruction P-28. (Exhibit H.)

Given ePlus's reluctance to include Lawson's proposed statements setting forth Lawson's positions, Lawson has obvious unease that there are additional Lawson positions that ePlus will not include in the joint submission. For this reason Lawson reserves the right to further supplement the joint submission to articulate its position where ePlus has refused to allow it to.

LAWSON SOFTWARE, INC.

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CERTIFICATE OF SERVICE

I certify that on this 3rd day of December, 2010, a true copy of the foregoing will be delivered electronically to the following:

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